

STATE OF MARYLAND  
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: \*

GAIL P. BINGHAM \*

Charging Party, \*

v. \* PSLRB Case No. SV 2013-13

PRINCE GEORGE’S COUNTY  
EDUCATOR’S ASSOCIATION \*

\*

Charged Party \*

\* \* \* \* \*

DECISION AND ORDER DENYING REQUEST FOR RELIEF  
AND DISMISSING CHARGE

I. INTRODUCTION

Gail P. Bingham (“Charging Party”) is employed in a certificated position with the Prince George’s County Board of Education (“County Board”). On June 19, 2013, she filed a Charge of Violation of Title 6, Subtitle 4 or Subtitle 5 of the Education Article (“Form PSLRB-05”), with the Public School Labor Relations Board (“Board” or “PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by Section 2-205(e)(4)(i) of the Education Article to “decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this Article.”

In her Charge, Charging Party alleges that her employee organization, Prince

George's County Educator's Association ("PGCEA"), violated Sections 6-407(b)<sup>1</sup> and 6-409<sup>2</sup> of the Education Article by failing to assist her in filing a grievance against the County Board.

## II. FINDINGS OF FACT<sup>3</sup>

Charging Party claims that PGCEA failed to provide her with assistance in filing a grievance against the County Board because she "was not a dues-paying member." The events leading up to the filing of the Charge are largely not in dispute and may be summarized as follows.

Charging Party received an overall "Satisfactory" performance rating at the end of the 2011-2012 school year. However, she received two unsatisfactory marks in the areas of "punctuality" and "relations to staff and parents." Charging Party contends that her school principal failed to timely notify her of these matters, and that they were raised in retaliation for Charging Party's involvement in forming a "Faculty Advisory Council" at her school.

PGCEA filed an appeal on Charging Party's behalf challenging the unsatisfactory marks. The appeal was submitted to the County Board Superintendent by letter dated

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<sup>1</sup> Section 6-407(b). "Fair Representation" – (1) "An employee organization designated as an exclusive representative shall represent all employees in the unit fairly and without discrimination, whether or not the employees are members of the employee organization."

<sup>2</sup> § 6-409. "Interference with employees prohibited" – "A public school employer and employee organization may not interfere with, intimidate, restrain, coerce, or discriminate against any public school employee because of the exercise of his rights under §§ 6-402 and 6-403 of this subtitle."

<sup>3</sup>The facts herein and all reasonable inferences drawn therefrom are considered in the light most favorable to the Charging Party.

July 20, 2012. It included evidence and argument in support of Charging Party's position that the unsatisfactory marks should be removed from her evaluation. The Superintendent subsequently denied Charging Party's appeal.

By letter dated August 20, 2012, PGCEA notified the County Board that it was appealing the Superintendent's decision. PGCEA also explained that Charging Party "will be represented by her own counsel" in the appeal.

On September 17, 2012, the County Board responded to PGCEA's August 20 letter stating that it would "review the limited issue of whether the unsatisfactory areas noted in [Charging Party's] evaluation were the result of discrimination," and requesting Charging Party "to present all factual information that she desires the [County Board] to consider through sworn affidavit(s) and submission of relevant documents, together with any legal argument she maintains is in support of her position."

By letter dated October 3, 2012, Charging Party notified the County Board that she would be providing the documents it had requested, and offered a preview of the evidence and arguments she would be submitting in connection with her appeal. Charging Party also challenged the PGCEA's assertion that she would be represented by her own counsel, claiming instead that PGCEA had a duty to represent her in the appeal.

On June 19, 2013, Charging Party filed her Charge with the PSLRB. It alleges in relevant part:

I requested assistance from [PGCEA] in filing a grievance against the administrators in Prince George's County Public Schools (PGPCS). I was initially denied assistance and representation April 24, 2012 by [PGCEA] Union Rep., Jima Thomas via phone, May 1, 2012 by Union Rep. Linda Phillips and by Susan Lesscer [sic] via email because "I was not a dues-

paying member”. Lastly, I was denied representation by PGCEA representative, Susan Lesscer [sic], August 20, 2012 in a letter to the Board of Education.

### III. POSITIONS OF THE PARTIES

Charging Party contends that PGCEA violated Sections 6-407(b) and 6-409 of the Education Article by refusing to assist her in filing a grievance because she was not a dues-payment member of PGCEA.

PGCEA acknowledges that it did not provide representation to Charging Party because of her non-membership in PGCEA. However, it contends that the representation owed to Charging Party as a non-member extends only to matters “related to the enforcement of the negotiated agreement.” Because Charging Party’s appeal of her evaluation arises under Section 4-205 of the Education Article—and *not* under the negotiated agreement—PGCEA claims it had no duty to represent her in the appeal.

PGCEA separately argues that Charging Party failed to file her Charge in a timely fashion. In this regard, it notes that Charging Party’s claims arise out of conduct that occurred on April 24, May 1 and August 20, 2012, all of which are more than 60 days prior to the date she filed her Charge.

### IV. ANALYSIS

As a threshold matter, we consider whether this action was timely filed. The Board’s Regulations provide that a Charge “must be filed with the Executive Director of the PSLRB within 60 days after the charging party knew, or reasonably should have

known, of the statutory violation alleged.” Code of Maryland Regulations (COMAR) 14.34.02.01B.

Charging Party acknowledges that she was made aware of the decision to deny her representation on the basis of her non-member status during an April 24, 2012 telephone conversation with a PGCEA representative. Charging Party states that she was also made aware of this by a May 1, 2012 email from PGCEA, and an August 20, 2012 letter from PGCEA to the County Board. Charging Party does not allege any other act or omission by PGCEA subsequent to the August 20, 2012 letter that could form the basis of a statutory violation.

On these facts, it is clear that Charging Party “knew, or reasonably should have known, of the statutory violation alleged” well before 60 days prior to June 19, 2013, the date on which she filed this Charge. Because Charging Party chose not to file her Charge until after the limitations period expired, it is time-barred and dismissed on this basis.


#### V. CONCLUSIONS OF LAW

For the reasons stated herein, we conclude that Charging Party failed to file this action in a timely fashion, and therefore DISMISS the Charge.

#### ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN THE INSTANT MATTER, PSLRB Case No. SV 2013-13, IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



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Seymour Strongin, Chairman



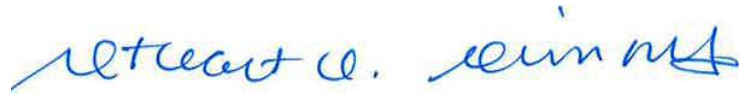
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Robert H. Chanin, Member



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Charles I. Ecker, Member



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Stuart O. Simms, Member

Glen Burnie, MD  
July 12, 2013

APPEAL RIGHTS

Any party aggrieved by this action of the PSLRB may seek judicial review in accordance with Title 10, Subtitle 2 of the State Government Article, Annotated Code of Maryland, Sec. 10-222 (Administrative Procedure Act—Contested Cases), and Maryland Rules CIR CT Rule 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).